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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/561,352

02/15/2007

Roland Ochmann

7742.3011.001

4020

23399 7590 10/26/2009
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EXAMINER

DOAK, JENNIFER L

ART UNIT

PAPER NUMBER

2872

MAIL DATE

DELIVERY MODE

10/26/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/561,352	OEHMANN, ROLAND	
	Examiner	Art Unit	
	Jennifer L. Doak	2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/26/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/26/09 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

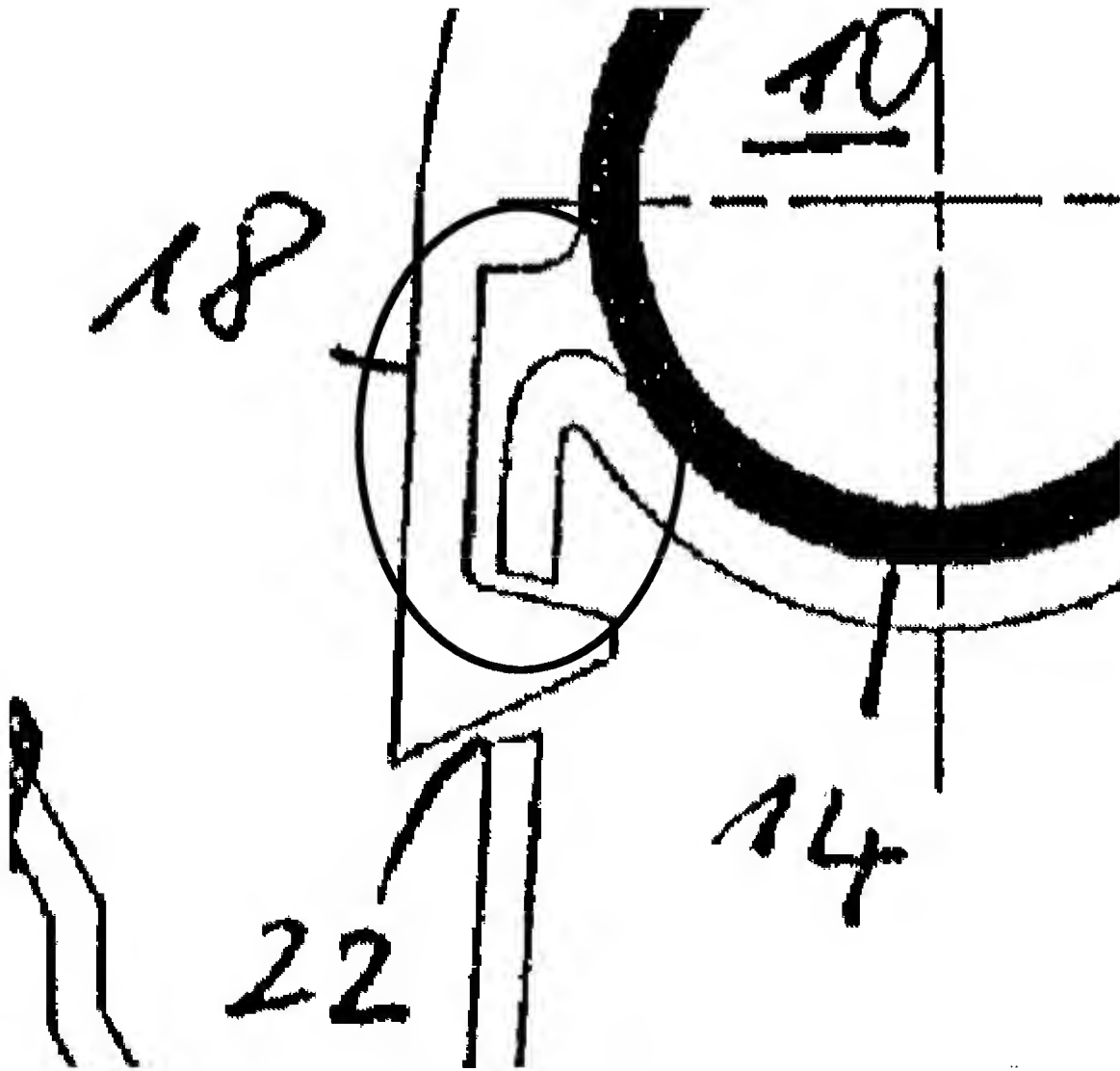
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 25-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Lang (US 20020080506).

Regarding claim 25, Lang discloses an outside rear view mirror assembly (Title) for a motor vehicle, said outside rear view mirror assembly comprising: a mirror housing (Fig. 2) including a circumferential lateral wall (i.e., as defined by the circumscribing edge of 4) defining an opening (i.e., wherein the mirror resides), an insertion opening (22), and a back wall (5); a mirror mounting bracket (18) fixedly securable to the motor vehicle (i.e., via 22 and 4) and insertable into said mirror housing (i.e., within the housing circumference) through said insertion opening, said mirror mounting bracket (18) including a catch recess (i.e., the part of the clip

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recessed behind the pointed projection that allows connection with 22; see circled portion of Fig. 2 below);



and a snap-in tongue (i.e., the clips extending from 5) defining a free end and extending out from said back wall (i.e., interior wall of 5) within said mirror housing for positive locking engagement with said catch recess (see Fig above; moreover, this limitation constitutes intended use) engaging said mirror mounting bracket (i.e., via 4) when said mirror mounting bracket is

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inserted into said mirror housing to lock said mirror mounting bracket therein (Fig. 2) such that said mirror housing is fixedly securable to the motor vehicle (although the Lang does not specifically disclose the claimed attachment to a motor vehicle, this feature is seen to be an inherent teaching of that device since it is disclosed that the invention is a rearview mirror for motor vehicles, and it is apparent that the mirror must be fixedly attached to the vehicle for the device to function as intended).

Regarding claim 27, Lang further discloses that said mirror mounting bracket includes a catch recess (Fig. 2) to receive said snap-in tongue (Fig. 2) therein to lock said mirror mounting bracket in place (Fig. 2), and wherein said snap-in tongue includes a catch piece (i.e., the projection from the tip) at said free end thereof to engage said catch recess.

Regarding claim 28, Lang further discloses that said mirror mounting bracket includes a positive locking component (i.e., the folded back section of 4 including the recess) extending out from said mirror mounting bracket to guide said mirror mounting bracket as it is inserted into said mirror housing (Fig. 2).

Regarding claim 29, Lang further discloses that said back wall of said mirror housing includes an insertion tunnel (i.e., the interior of the folded back section of 4 including the recess) for receiving said positive locking component therein.

Regarding claims 30 and 31, Lang further discloses said positive locking component includes a stop (i.e., the uneven portion of 4 just beyond the clip of 5) for abutting said insertion tunnel preventing said catch piece from moving past said catch recess (Fig. 2); that said catch recess

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includes an angled surface (i.e., the angled nature of the surface may be seen in the figure) to abut and engage said catch piece (Fig. 2).

Regarding claim 32, Lang discloses an outside rear view mirror assembly (Title) wherein said catch piece (i.e., the projection portion of the end of the clip of 5) extends laterally across said snap-in tongue (i.e., the clip ends of 5).

Response to Arguments

Applicant's arguments submitted 6/25/09 have been considered, but are not found persuasive.

Applicant argues (1) the reference does not meet the claim language because "clamping bracket 12 can never be secured to the motor vehicle but through an intermediate structure" thus it is not a "mounting bracket" as would have been known to one skilled in the art (REMARKS, pp. 5-6); (2) the limitation requiring a catch recess is not met (p. 6); (3) "Claim 25 does not rely on a device that secures and friction fits a tube that extends therethrough," (p. 6).

Examiner respectfully disagrees. First, clamping brackets can be used to clamp more than mirror to vehicles, also to housings, supports, etc. No special definition of "mounting bracket." All limitations have been given their broadest reasonable interpretation. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Thus, the exclusion of "intermediate structure" is not achieved in this manner. Moreover, the claim only requires that the mirror (i.e., the glass part, 30) be attached to the vehicle; it does not exclude other, intervening structures, but rather expressly contemplates them by using

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"comprising" language. The singular elements recited by the claims are not required by Applicant's claim language to be exclusive. The preamble word "comprising" is open-ended and thus does not require the exclusivity of the recited elements, but allows the reference or combination of references to contain other elements as well. Additionally, "[t]he word 'comprising' transitioning from the preamble to the body signals that the entire claim is presumptively open-ended." *In Gillette Co. v. Energizer Holdings Inc.*, 405 F.3d 1367, 74 USPQ2d 1586 (Fed. Cir. 2005). See also *Mars Inc. v. H.J. Heinz Co.*, 377 F.3d 1369, 1376, 71 USPQ2d 1837, 1843 (Fed. Cir. 2004) ("like the term comprising, 'the terms containing' and mixture' are open-ended."), *Invitrogen Corp. v. Biocrest Mfg., L.P.*, 327 F.3d 1364, 1368, 66 USPQ2d 1631, 1634 (Fed. Cir. 2003) ("The transition comprising' in a method claim indicates that the claim is open-ended and allows for additional steps."); *Genentech, Inc. v. Chiron Corp.*, 112 F.3d 495, 501, 42 USPQ2d 1608, 1613 (Fed. Cir. 1997). (MPEP §2111.02.)

Second, please see the new rejection and edited portion of Fig. 2 above, noting the recessed space behind and above the pointed area of catch 18.

Third, claim 25 does not include language requiring "secur[ing] and friction fit[ting] a tube that extends therethrough." Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer L. Doak whose telephone number is (571)272-9791.

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The examiner can normally be reached on Mon-Thurs: 7:30A-5:00P, Alt Fri: 7:30A-4:00P (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephone B. Allen can be reached on 571-272-2434. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. L. D./
Examiner, Art Unit 2872

/Stephone B. Allen/
Supervisory Patent Examiner, Art Unit 2872